

**Town of Nolensville
Planning Commission Meeting
Regular Meeting
Amended Minutes
June 8, 2006
7:00 P.M.
At Nolensville Elementary School**

Members in attendance were as follows: Matt Happel, Jimmy Alexander, Larry Gardner, Frank Wilson, Willis Wells, Tommy Dugger, and Bob Haines. John Boyd and Rick Fisher were absent.

Staff present was Henry Laird, Richard Woodroof, Bob Notestine, and Tonia Smith.

Agenda Item I- Meeting called to order by Willis Wells

Agenda Item II- Pledge of Allegiance

Willis Wells made an announcement that Rick Fisher will be resigning from the Planning Commission. Mayor Dugger stated that at the next BOMA meeting, they will nominate and appoint a replacement who will be in attendance for the next Planning Commission Meeting.

Larry Gardner made a motion to have Frank Wilson nominated as the new Vice Chairman of the Board. Bob Haines seconded the motion. Motion passed with 6 for and Frank Wilson abstaining.

Agenda Item III- Citizen Comments

Joe Curtsinger- 7380 Nolensville Road- commented that he would like to see the Board discuss and adopt an exact policy on how they handle concept plans versus preliminary plats and final plats. In the process of subdivision and Planned Unit Development adoption, he feels we need to be more specific on when the developer gains any rights. He stated he feels giving vested rights or to talk about any vested rights with developers for sketch plans or concept plans probably is wrong. He stated he would like to see the Board consider adopting a policy that no official rights be claimed until they get to the level of preliminary plat. He stated under the Tennessee Planning Commission laws that most of the time they feel there are no vested rights until they get to the preliminary stage. He also commented that before the Board adopts any subdivisions or other developments that they should be aware of the entire impact involved and have a capital improvement plan developed by the staff which will accompany everyone and ensure that we have a plan to gain our fee structures back and then have that recommended when it comes to the BOMA.

James Clark-921 Oldham Drive-stated his concern was regarding temporary use and referenced the fireworks stand down Nolensville Road. He stated that his idea of temporary use is that it does not change the existing landscape. He indicated that the area at the fireworks stand has been paved over and that this makes it part of public use, and should come before the committee to get approval before doing so. He would like to see the Board address this concern.

Gardner Jones-700 Cromwell Court-stated that a citizen had a question regarding whether there are any regulations in place to protect old houses or historic buildings. He thinks the issue was brought up of the giving away of a log cabin by the fire house for a developer and would like to find out what the Commissions answers are regarding that concern.

Agenda Item IV- Approval of Minutes

Larry Gardner made a comment referencing the minutes from the May 11, 2006 Planning Commission Meeting. He stated that when the PUD standards were discussed a decision was not made regarding the lot sizes and open spaces and were still open for discussion. He requested that the minutes be corrected to reflect the 5 conditions that were approved and note that the lot size and open space were not yet determined.

Larry Gardner made a motion to approve the minutes, but noting that the lot size and open space will be discussed further and an amendment to the May 11, 2006 minutes be made. Mayor Dugger seconded the motion; passed unanimously.

Agenda Item V- New Business

A. Site Plan Reviews

1. Resubdivision Lot 41B Section 3, Stonebrook

Henry Laird stated that this was a resubdivision to split lot 41B into two lots for Office/Industrial use; one of which is for National Business Products. He stated that staff recommends approval of the resubdivision.

Bob Haines made a motion to approve the resubdivision of Lot 41B. Frank Wilson seconded the motion.

Larry Gardner asked the staff if one detention pond will serve both lots.

Rich Woodroof stated that per their Engineer, Jason Morelock, one detention pond will be able to support both lots.

Jimmy Alexander commented on the access easement going out to the east property line and questioned the purpose of the easement. Jason Morelock stated that they don't intend to carry it out to the east, and said that if we would like to terminate it at the curb line they would do so.

Jimmy Alexander made a motion to amend to terminate the easement at the back of the curb line. Matt Happel seconded the motion; passed unanimously.

Bob Haines original motion, as amended, to approve with Frank Wilson's second passed unanimously.

2. National Business Products Site Plan, Lot 41B

Henry Laird stated that the applicant has responded satisfactorily to our comments and have made the necessary changes on the site plan. Staff recommends approval with the setting of bonds for stormwater and landscaping installation in amounts approved by the Town Engineer.

Jimmy Alexander made a motion to approve with bond amounts being set. Bob Haines seconded the motion.

Tommy Dugger commented that it appeared that the parking met the requirements according to square footage, but that the number of employees on the largest work shift is 30 and only 29 parking spaces are reflected which poses a minor problem with employees and customers having sufficient parking availability.

Jason Morelock stated they reduced parking based off of staff recommendation as they originally had approximately 41 spaces, but that if they needed to add some spaces back, they would. Currently there are a total of 31 spaces with two being reserved for the handicapped.

Rich Woodroof stated that they do in fact have the required amount based off of the zoning ordinance and square footage requirements, but given the facts, he would suggest adding more spaces.

Mayor Dugger also commented on the sinkhole concern.

Jason Morelock stated that they will be getting a licensed Geotechnical Engineer to look at it and come up with a modification, and that he placed a stipulation that he would allow Rich to review it and make sure that it is acceptable.

After much discussion, Mayor Dugger made a motion to amend to add 5 more parking spaces with them working with Rich on where they will be located. Matt Happel seconded the motion; motion passed unanimously.

Jimmy Alexander's original motion, as amended, to approve the site plan with the bonds being set, with Bob Haines second, passed unanimously.

3. Lot 3, Haley Industrial Park, Hyun Texaco

Rich Woodroof stated that the Planning Commission originally approved this site July 14, 2005. The previously approved site plan allowed for 6 pump stations stacked with a canopy over the center, but due to a market study that was performed, they have reduced the number of pumps to 5 because the study showed that a 6 pump station would not be supported at this time. They have altered the pump alignment to provide a better flow of traffic and eliminate the "stacking" situation as well. The site plan also previously approved was approved with underground storage and now they are proposing a detention pond in the front.

Frank Wilson made a motion to approve. Willis Wells seconded the motion.

Mayor Dugger commented that he had a concern with the detention pond being out front by Nolensville Road.

Matt Happel asked what the reasoning was for the change, and Kevin Estes stated that with the underground storage it required a lot of the rock excavation and the costs would be extremely high. He stated that the retention area would be approximately 3' high with landscaping all around to make it unnoticeable.

Henry Laird stated that this proposal would work, but that it is the Planning Commissions decision. Staff still recommends three canopy trees be required to be planted along front side of retention area as previously requested to screen retention area.

Bob Haines questioned the lighting plan.

After much discussion, Larry Gardner made a motion to amend to work with staff on the lighting plan, to allow the removal of the one pump, and the underground storage will remain. Matt Happel seconded the motion; passed unanimously.

Frank Wilson's original motion, as amended, with Willis Wells second was approved unanimously.

B. Subdivision Reviews

1. Ballenger Farms, Phase 3, Section 1 Final Plat

Rich Woodroof stated that this final plat consists of 56 lots approved under an OSD sketch plat and contains 21.785 total acres and 7.176 open space acres. Staff recommends approval with bond amount to be set at \$375,000.

Larry Gardner made a motion to approve the final plat for Phase 3, Section 1 with the performance bond being set at \$375,000. Jimmy Alexander seconded the motion; motion passed unanimously.

2. Bent Creek Phase 3, Section 1 Final Plat

Rich Woodroof stated that this final plat has 36 lots with lot 31 being the smallest lot at 5,777 square feet and the largest lot (lot 8) at 9,964 square feet. The average lot size is 7,400 square feet. There is one concern regarding the corner lots showing double setback frontages at 20 foot, and they would like to see 10 foot. He also recommended that the performance bond be set at \$95,000.

Jimmy Alexander made a motion to approve Bent Creek Phase 3, Section 1 Final Plat with changing one of the setbacks to 10 foot and the performance bond being set at \$95,000. Mayor Dugger seconded the motion; passed unanimously.

3. Nolen Park

Citizen comments-Joe Curtsinger stated he felt that this request for variance and amending Final P.U.D. Plan on the curb and gutter design should go before the BZA.

Rich Woodroof clarified that if it was not a change to the zoning ordinance, but a change to the subdivision regulations, that it would go before the Planning Commission.

The variance request is due to the fact that the concept plan reflected a vertical curb and gutter and when it went to Final P.U.D. Plan it reflected a mountable curb and gutter. The issue is that a vertical curb and gutter has been installed up to lot 10.

Kevin Gangaware proposed a possible solution to the problem by keeping the vertical curb on the entrance road up to the catch basins near the end of lot 7 and then converting to the approved mountable curb and gutter. The first 7 lots are all on the north side of the street with open space running along the south side of the entrance road.

Rich commented that if that particular variance is chosen, that there should be no parking on either side of the entrance road in front of the first 7 lots.

Willis Wells made a motion to approve the variance of allowing the vertical curb to remain up to the catch basins between lots 7 and 8, and the remaining curb to be the mountable curb and gutter with no parking on either side of street. Mayor Dugger seconded the motion; motion passed with 6 to 1 with Bob Haines against.

4. Nichols Subdivision Sketch Plan

Land Design, representing Centex, has submitted a revised sketch plan for Nichols and other properties between Britain Lane and Maupin Lane for a straight subdivision. It proposes 158 detached single family houses on 140.6 acres; area is zoned SR with the Annexation Buffer Overlay (ABO). Minimum density is 1.4 units/acre; minimum lot size is 20,000 sq. ft.

Staff recommends that Planning Commission authorize developer to proceed to prepare preliminary plat for the proposal that incorporates our recommendations.

Planning Commission agreed that this is not approval for a preliminary plat and that they can proceed to prepare the plat.

C. Zoning Amendment Considerations

1. Request for rezoning of the Dark's property

Henry Laird stated that this is a request for rezoning of the Dark's property, Map 33, Parcel 108.05, to Commercial Services (CS) with Commercial Corridor Overlay (CCO) which complies with the Town's land use plan and with recent zoning trends for the area.

Matt Happel made a motion to approve the rezoning of Parcel 108.05 to Commercial Services (CS) with the Commercial Corridor Overlay (CCO). Willis Wells seconded the motion; passed unanimously.

2. Non-conforming use expansions

Please see the following memorandum from Henry Laird:

Reason for Considering Changes:

State Code 12-7-208 allows for expansion of a legal nonconforming use by an existing business or industry on a site that was previously legal before a zoning change provided that there is sufficient land under the control of the business or property owner and the use will be more compatible with surrounding land uses. Our ordinance does not allow any such expansion of a nonconforming use nor does it allow a change to another nonconforming use.

After consulting with Bob Notestine I recommend the proposed changes below that would allow such changes if so determined by the Board of Zoning Appeals. This would make our ordinance more in line with state law and allow for some site improvements that wouldn't otherwise be allowable, particularly in the northern strip along Nolensville Road where some non-residential uses already exist in the SR zone.

Proposed Changes to Text:

Article 1.5.3 that reads as follows:

Enlargement and Expansion No non-conforming use shall be permitted to expand through the acquisition of additional land or additional construction.

Shall be revised to read as follows:

Enlargement and Expansion No residential non-conforming use shall be permitted to expand through the acquisition of additional land or additional construction.

The non-residential non-conforming use of a building designed and constructed for nonresidential activities which were permitted prior to the change in zoning

may be changed to another nonconforming use upon a determination by the board of zoning appeals that the new nonconforming use will be more compatible with surrounding land uses than the existing nonconforming use and the land is owned or otherwise controlled by the business owner so the existing business is not expanded through the acquisition of additional land.

Article 1.5.5 that reads as follows:

Change of Use A non-conforming use which has ceased for twelve (12) months or greater shall be assumed to be abandoned, regardless of the intent to resume or not to abandon the use, and shall be completely terminated.

Shall be revised to read as follows:

Change of Use A non-conforming residential use which has ceased for twelve (12) months or greater shall be assumed to be abandoned, regardless of the intent to resume or not to abandon the use, and shall be completely terminated. A non-conforming non-residential use which has ceased for thirty (30) months or greater shall be assumed to be abandoned, regardless of the intent to resume or not to abandon the use, and shall be completely terminated.

Article 1.5.4 that reads as follows:

Article 1.5.4 Destruction If a non-conforming use is destroyed, or partially destroyed through no intention of the owner, to the extent of more than 50 percent of the replacement cost, the structure may be rebuilt. However, the new structure shall comply with all applicable provisions of this ordinance and shall be no larger than 125 percent of the original structure's floor area. If the use is not rebuilt within twelve (12) months, then the use shall not be rebuilt, restored, or reoccupied for any purpose except for reasonable cause as determined by the Town's Mayor or his designee. Non-conforming structures must be rebuilt in accordance with the regulations of this ordinance.

Shall be revised to read as follows:

Article 1.5.4 Destruction If a non-conforming use is destroyed, or partially destroyed through no intention of the owner, to the extent of more than 50 percent of the replacement cost, the structure may be rebuilt. However, the new structure shall comply with all applicable provisions of this ordinance and shall be no larger than 125 percent of the original structure's floor area. If the use is residential and is not rebuilt within twelve (12) months, then the use shall not be rebuilt, restored, or reoccupied for any purpose except for reasonable cause as determined by the Town's Mayor or his designee. If this use is business or commercial and is not rebuilt within thirty (30) months, then the use shall not be restored, or reoccupied for any purpose except for reasonable cause as determined by the Town's Mayor or his designee. Non-conforming structures must be rebuilt in accordance with the regulations of this ordinance.

Bob Haines made a motion to approve the changes regarding non-conforming use expansions. Frank Wilson seconded the motion; passed unanimously.

3. Historic District Commission Amendments

Per Betty Friedlander's request for amendments to the section of the ordinance regarding the Historic District Commission, Henry Laird recommended the following changes:

- 1.10.2 Membership**-The Historic Zoning Commission shall consist of no less than five (5) and no more than nine (9) members; all of which shall be members of the Historic Planning Commission when appointed, except that one or more members may be selected by the Mayor from the community in general in order to comply with the provisions of T.C.A. 13-7-403. All members shall be appointed by the Mayor and approved by the Mayor and Board of Aldermen. The terms of members of the Historic Zoning Commission shall be five (5) years except that the members appointed initially shall be appointed for staggered terms so that the terms of at

least one (1) member but not more than two (2) members shall expire each year. Vacancies shall be filled for any unexpected terms by the Mayor and confirmed by the Board of Mayor and Aldermen. All members of the Historic Zoning Commission shall serve without compensation.

1.10.3 Procedure-The members shall elect a chair from among themselves to preside over meetings. Meetings of the Historic Zoning Commission shall be held at the call of the Chairman and at other times as the Historic Zoning Commission may determine. All meetings of the Historic Zoning Commission shall be open to the public. A majority of the appointed commission members shall constitute a quorum for the transaction of any business. The concurring vote of a majority of those present at any meeting shall constitute final action of the Historic Zoning Commission on any matter before it. The board shall maintain a record of its meetings and all actions taken, and these records shall be open to the public.

9.5.4 Decisions-The Historic Zoning Commission shall render its decision either to grant the application approval, grant it approval subject to conditions or deny it approval. All decisions of the commission shall be in writing and shall state the findings of the commission, its recommendations as to approval with or without conditions, disapproval, or deferral, and the reasons therefore within 30 days of first consideration by the Historic Zoning Commission of the application for a Certificate of Appropriateness. A Certificate of Appropriateness shall expire in one (1) year from the date of approval if a substantial amount of the approved work has not commenced.

Willis Wells made a motion to approve the Historic District Commission amendments per the recommendations of Betty Friedlander and Henry Laird. Mayor Dugger seconded the motion; passed unanimously.

Agenda Item VI- **Old Business**

A. **The Reserve at Bent Creek**

Henry Laird stated that at the previous meeting there were some issues with the approval of the Reserve at Bent Creek plat due to some grave sites being on lots 22 and 23 of the plat. There was a condition that those be removed from the plat and in addition, if any additional grave sites were found that they would not issue any building permits until properly removed through the proper process.

Eric McNeely stated that they hired an Archaeological service, DuVall and Associates, to survey the property. There were in fact some graves found in the vicinity of lots 22 and 23, but no other grave sites were found on the property. He would like to go back to the original approved condition to remove lots 22 and 23 from the plat and renumber them, and at a later date, after working with the Chancery Court, remove the graves and add the lots back to the plat.

Jimmy Alexander made a motion to approve The Reserve at Bent Creek plat minus lots 22 and 23 and allow them to proceed with their legal process and come back after the issue is resolved. Larry Gardner seconded the motion.

Rich Woodroof commented that they would like to see on the plat that the area is preserved and no construction equipment and such be allowed in the area.

Jimmy Alexander made a motion to amend to add that the area is a preservation area on the plat. Larry Gardner seconded the motion; passed unanimously.

Jimmy Alexander's original motion, as amended, to approve with Larry Gardner's second passed unanimously.

Agenda Item VII- Other Business

A. Monthly Bond Report

Rich Woodroof notified Eric McNeely that the bond for Bent Creek Phase 1 Section 4B is due to expire on July 12, 2006. He stated that the next bond due to expire is a maintenance bond for 13C Stonebrook which expires September 30, 2006.

Willis Wells made a motion to approve the monthly bond report. Mayor Dugger seconded the motion; motion passed unanimously.

Rich Woodroof provided an update on McFarlin Woods and stated that they are still working on the issues.

Frank Wilson stated he agreed with Dr. James Clark regarding temporary uses and changing the existing landscape. He feels a permit should have been applied for.

Rich Woodroof stated that the International Fire Code will not allow the sale of combustibles under the tent or within in a grassy area. He stated that his standpoint was the lot is a private lot and that he does not require permits or drainage calculations from someone who paves their own property.

There was discussion regarding our subdivision regulations and whether they reference a percentage for the number of side or rear loaded garages. Rich noted that this was part of the standard policy approval from last meeting that at least 70% of the lots approved must have side-load or rear-loaded garages.

There was also more discussion regarding the lot sizes in a PUD, but no decision was made.

Agenda Item VIII- Adjournment

Being no further business to come before the Planning Commission the meeting was adjourned at 9:30 P.M.

Larry Gardner
Secretary for the Planning Commission

Date